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October 23, 2019

**Via U.S. Mail**

Lot Owners  
Railroad Springs 66 Homeowners' Association

**Re: Proposed Amended and Restated Declaration**

Dear Owners:

Our firm, working with your Board of Directors, has completed the process of amending and restating the Declaration of Covenants, Conditions and Restrictions (“Declaration”). Enclosed please find the proposed Amended and Restated Declaration, incorporating the changes.

The primary purposes for these changes are to bring the Declaration in line with the law, to remove irrelevant or expired provisions, to clarify provisions that were confusing and/or incomplete, and to help the Association operate more smoothly and effectively.

The following is a list of the major changes, separated by type of change. For a complete showing of the proposed changes, please see the proposed Amended and Restated Declaration. Please note that section numbers referencing provisions that were added or changed refer to the proposed Amended and Restated Declaration. Please note that section numbers referencing provisions that were removed refer to the original Declaration.

**Removal of Irrelevant Provisions:**

1. Removed irrelevant provisions about the Declarant (throughout).
2. Removed provisions that only applied during initial construction, before termination of Class B membership, and during the period of Declarant control (throughout).
3. Removed the expired terms regarding annexation of property by the Declarant (old paragraph 31).

Updated Provisions to Comply with the Law:

1. Removed references to “proxy” or “proxies” and replaced them with references to “absentee ballots”, as provided in the Planned Community Act (throughout).
2. Added a provision limiting the annual increase in assessments charged without approval of the Members to 20%, in accordance with the limit set forth in the Planned Community Act (Art. VI, Sect. 6.3(B)).
3. Added a provision regarding the Association providing a certificate of payment of assessments to match the requirements of the Planned Community Act (Art. VI, Sect. 6.13).
4. Updated restrictions on signs in accordance with the Planned Community Act (Art. VII, Sect. 7.3).
5. Updated the provision regarding solar energy devices (Art. VII, Sect. 7.5).
6. Updated the provisions regarding satellites and antennae to comply with federal law (Art. VII, Sect. 7.10).
7. Updated restriction on leasing to require that certain information be submitted for each lease, as permitted by the Planned Community Act (Art. VII, Sect. 7.12).
8. Added provisions regarding vehicles that, according to the Planned Community Act, must be permitted to park on streets and driveways (Art. VII, Sect. 7.22 and 7.23).
9. Added a provision regarding flags and flagpoles in accordance with the Planned Community Act (Art. VII, Sect. 7.26).

Updated Provisions to Help the Association Operate More Smoothly:

1. Updated the definition of “Owner” to address Lots held in trust (Art. I, Sect. 1.12).
2. Updated the definitions of “Plat” and “Property” to reflect annexed property (Art. I, Sect. 1.14 and 1.15).
3. Added a definition of “Visible from Neighboring Property” to help clarify restrictions in other sections (Art. I, Sect. 1.21).
4. Updated and simplified the provision regarding voting rights when a Lot is owned by more than one person (Art. II, Sect. 2.4).
5. Updated the provision regarding the Board’s authority to suspend an Owner’s right to vote for violations of the Declaration (Art. II, Sect. 2.5).
6. Added a provision regarding the Board and officers (Art. II, Sect. 2.6).
7. Added a provision regarding the Board’s authority to adopt rules (Art. II, Sect. 2.8).
8. Added a provision regarding the Board’s authority to construe and interpret the documents governing the Association (Art. II, Sect. 2.9).
9. Added a provision giving the Board the right to suspend an Owner’s right to use the Common Area for violations of the Declaration (Art. III, Sect. 3.1(3)).
10. Consolidated and updated provisions regarding easements (Art. III).
11. Updated the provisions regarding insurance (Art. IV) and updated the provision regarding Owners’ obligation to carry insurance (Art. IV, Sect. 4.6).
12. Added provisions regarding payment of insurance proceeds and repair and replacement of damaged or destroyed Common Area (Art. IV, Sect. 4.8 and 4.9).
13. Updated and clarified Owners’ maintenance responsibilities (Art. V, Sect. 5.1).

14. Updated and clarified the Association's remedies if an Owner fails to maintain their Lot or causes damage to the Common Area (Art. V, Sect. 5.3 and 5.4).
15. Removed the provision requiring Owners to submit disputes regarding party walls to the Board for resolution (Art. V, Sect. 5.5).
16. Added a provision clarifying the lien and personal obligation for Assessments (Art. VI, Sect. 6.1).
17. Added a provision providing for the Board's procedure for adopting a budget and setting the Annual Assessments (Art. VI, Sect. 6.3).
18. Gave the Board the authority to raise the Annual Assessments mid-year within established parameters (Art. VI, Sect. 6.3(C)).
19. Added flexibility regarding reasons for which Special Assessments may be levied (Art. VI, Sect. 6.4).
20. Added a provision for Individual Assessments to be levied against individual Owners (Art. VI, Sect. 6.7).
21. Added a provision establishing a Working Capital Fee (Art. VI, Sect. 6.8).
22. Updated and clarified the Association's remedies for non-payment of Assessments (Art. VI, Sect. 6.9).
23. Updated the restriction regarding business use of Lots to match today's society (Art. VII, Sect. 7.2).
24. Updated and added restrictions on animals and pets (Art. VII, Sect. 7.6).
25. Updated restrictions on commercial vehicles (Art. VII, Sect. 7.22).
26. Removed the restriction regarding parking on the public streets (Art. VII, Sect. 7.23).
27. Added a definition of a vehicle in a state of disrepair and/or in an inoperable condition (Art. VII, Sect. 7.24).
28. Updated the architectural review requirements to add clarity to the timeline for review of submitted plans and to add a provision requiring all landscaping and structures to meet the requirements of the documents governing the Association (Art. VII, Sect. 7.25).
29. Updated the provisions regarding enforcement and strengthened the Association's enforcement remedies (Art. VIII, Sect. 8.2).
30. Updated and simplified the provisions regarding amendments to remove the provision requiring approval from Eligible First Mortgagees and to add a provision allowing the Board to amend the Declaration without the consent of the Owners to correct any error or inconsistency in the Declaration or to bring the Declaration in line with the law (Art. VIII, Sect. 8.3).
31. Added a provision regarding termination of the Declaration (Art. VIII, Sect. 8.4).
32. Added provisions regarding the Association's right to record a notice of violation against a Lot (Art. VIII, Sect. 8.7).
33. Added a provision providing that a violation of law or ordinance is a violation of the Declaration (Art. VIII, Sect. 8.8).
34. Added a provision regarding joint liability of joint Owners and Owners' responsibility for guests and tenants (Art. VIII, Sect. 8.9 and 8.10).
35. Added a provision providing that the Association's legal fees may be paid for administrative and legal proceedings (Art. VIII, Sect. 8.12).

36. Removed the provision regarding protections for Eligible Mortgage Holders, as it is unlikely that the Association has any (e.g. holders of First Mortgages who have informed the Association in writing of their request to receive notices of certain Association action) (old paragraph 27).
37. Removed the provision governing a professional management agreement (old paragraph 28).
38. Added a provision stating that a failure to take enforcement action is not a waiver or abandonment of the restriction (Art. XIV, Sect. 14.11).

### **Conclusion**

The Association will be discussing the proposed Amended and Restated Declaration at the upcoming Board meeting on November 6, 2019 at 5:30 PM. If you are unable to attend the meeting and have any questions about the Amended and Restated Declaration, please contact Marlene Larson at 928-556-1461 or by email at [peakshoamgmt@gmail.com](mailto:peakshoamgmt@gmail.com).

You can give your approval for the Amended and Restated Declaration by completing the enclosed written consent form. The Board requests that you sign and return the consent form no later than January 31, 2020.

Thank you, in advance, for your participation in this matter.

Sincerely,



Adrienne A. Speas

Enclosures:

- (1) Proposed Amended and Restated Declaration
- (2) Written Consent Form
- (3) Self Addressed Return Envelope